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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,599	06/14/2001	Gerrit H. Soepenber	NL 000395	6414

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT PAPER NUMBER

2171

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/881,599	Applicant(s) SOEPENBERG ET AL.	
	Examiner Etienne P LeRoux	Art Unit 2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-10, 12-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 12-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) ✓ | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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Continued Examination

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/2004 has been entered.

Claim Status

Claims 1-3, 6-10, 12-16 and 18-23 are pending in this office action. Claims 4, 5, 11 and 17 have been cancelled. Claims 1-3, 6-10, 12-16 and 18-23 are rejected in this office action.

Specification

First Objection:

Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an application for patent filed in the United States may be entitled to the benefit of the filing date of a prior application filed in a foreign country. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).

Second Objection:

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The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification does not support “file module” and “directory module” in a clear and concise manner such that one of ordinary skill in the art would be able to accurately interpret the claim language. For purposes of this examination, file module and directory module will be interpreted in accordance with the most convenient prior art.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 6-10, 12-16 and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,496,896 issued to Inoue (hereafter Inoue) as best examiner is able to ascertain.

Claims 1, 16 and 22:

Inoue discloses:

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- carousel-forming [Fig 8F, col 19, lines 33-40] data file and directory objects are sent in cycles with predetermined groups of file and directory objects being formed into respective modules at the transmitter, with each module being transmitted as a whole [Fig 8d blocks are grouped together and transmitted as a section, col 18, lines 60-67].

- the receiver being arranged to store for retrieval and subsequent playback received file data and directory objects under a predetermined grouping formulation, wherein the file and directory modules are comprised in discrete data portions carried in an elementary stream, with said predetermined grouping formulation for storage being at the module level [Fig 8C, col 18, lines 46-67]

Claim 2:

Inoue discloses said transmitter comprising a connection to a source of data for transmission and data formatting means arranged to assemble into modules for transmission file data and directory objects [col 18, lines 46-67]

Claim 3:

Inoue discloses said receiver comprising means arranged to receive said transmitted modules and to store the file data and directory objects therein according to a predetermined grouping formulation [col 18, lines 46-67]

Claims 6, 12 and 18:

Inoue discloses wherein the data including file and directory modules further comprises a version indicator to identify updates, with said modules further comprising discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level [col 19, lines 19-21]

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Claims 7, 13 and 19:

Inoue discloses wherein the file and directory modules are linked to time stamp data, with the transmitter being configured to include such time stamp data and the receiver component being arranged to recover such time stamps and utilize them in the reproduction from storage of the carousel [17, lines 50-60].

Claims 8, 14 and 20:

Inoue discloses wherein the reproduction from storage of the carousel is performed at data rates other than that indicated by said time stamps [col 17, lines 60-61].

Claim 9, 15 and 21:

Inoue discloses wherein the reproduction from storage of the carousel is performed at data rates greater than that indicated by said time stamps by reproducing carousel data at a data rate indicated by time-stamp data and selectively interposing additional copies of reproduced carousel file and directory objects with said originally reproduced copies [col 17, lines 60-61]. 24-36].

Claim 10:

Inoue discloses said transmitter comprising a connection to a source of data for transmission and data formatting means arranged to assemble into modules for transmission file data and directory objects [col 17, lines 30-32].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue in view of Applicant's admitted prior art.

Claim 23:

Inoue discloses the elements of claim 22 as noted above.

Inoue fails to disclose wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules.

Applicant as admitted prior art discloses wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules [page 3, lines 13-16].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inoue to include wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules per applicant's admitted prior art for the purpose of providing a high speed large bandwidth data transport service. The ordinarily skilled artisan would have been motivated to modify Inoue's invention for the purpose of providing a transport protocol for an audio/video stream which complies with the MPEG-2 industry standard.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue in view of US Pat No 6,052,555 issued to Ferguson, as best examiner is able to ascertain.

Claim 23:

Inoue discloses the elements of claim 22 as noted above.

Inoue fails to disclose wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules.

Ferguson discloses wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules [col 3, lines 50-63].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inoue to include wherein with respect to said predetermined grouping

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3, lines 59-63]. The ordinarily skilled artisan would have been motivated to improve Inoue's invention by providing an appropriate high speed large bandwidth data transport service [col 3, lines 45-48].

Response to Arguments

Applicant's arguments filed 5/14/2004 have been fully considered and are partially persuasive. Above new art rejection is provided in order to advance prosecution by avoiding unnecessary arguments over semantics of the claim language, in particular what comprises module level.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620.


The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Etienne LeRoux

9/8/2004


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